



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 27, 1998

Ms. Christene Mirbagheri
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
City Hall
Dallas, Texas 75201

OR98-2505

Dear Ms. Mirbagheri:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 119071.

The City of Dallas Police Department (the "city") received a request for "all educational history" pertaining to a named police officer. You seek to withhold the requested information under Government Code sections 552.026 and 552.114.

Section 552.026 of the Government Code provides:

This chapter [*i.e.* the Open Records Act, Government Code chapter 552] does not require the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974, Sec. 513, Pub. L. No. 93-380, 20 U.S.C. Sec. 1232g.

The Family Educational Rights and Privacy Act of 1974 ("FERPA") provides that no federal funds will be made available under any applicable program to an educational agency or institution that releases personally identifiable information (other than directory information) contained in a student's education records to anyone but certain enumerated federal, state, and local officials and institutions, unless otherwise authorized by the student's parent. *See* 20 U.S.C. § 1232g(b)(1). "Education records" mean those records that contain information directly related to a student and are maintained by an educational agency or institution or by a person acting for such agency or institution. 20 U.S.C. § 1232g(a)(4)(A).

disclosure. Gov't Code §§ 552.007, .021. You initially claim that the corporation need not release the requested membership list because it is not public information. Section 552.002 of the Government Code defines public information as "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it." You argue that the list is not required to be kept or maintained by the corporation under a law or ordinance. It appears, nonetheless, that the corporation maintains the requested membership list and addresses in connection with the transaction of official business.² We conclude, therefore, that the requested information is public information subject to public disclosure.

You contend that even if the information is public information, it is excepted from disclosure because of right of privacy. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses common-law privacy and excepts from disclosure private facts about an individual. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Therefore, information may be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 at 1 (1992).

We first point out that information is not confidential under the Open Records Act simply because the party submitting it anticipates or requests that it be kept confidential. Open Records Decision No. 479 (1987); 180 (1977). Furthermore, this office has found that disclosure of a person's name, home address, and phone number is not an invasion of privacy. Open Records Decision No. 554 (1990). Home addresses and phone numbers are not "intimate" information; and therefore, it is not protected from disclosure by common law privacy. Open Records Decision No. 478 (1987); 455 (1987); *see* Open Records Decision No. 318 (1982) (names and present addresses of residents of public housing are not excepted by constitutional or common law privacy). Assuming that the corporation is a governmental body, the requested list of voting members' names and addresses must be released under the Open Records Act.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous

² The requestor urges that the requested information is maintained in compliance with the corporation's by-laws and must be released to them. Because we make a determination under the Open Records Act, we do not address this issue.